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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/674,221

02/13/2002

Leonard J. Fabiano, III

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EXAMINER

RETTA, YEHDEGA

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

08/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/674,221	Applicant(s) FABIANO, III, LEONARD J.	
	Examiner Yehdega Retta	Art Unit 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 11-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to Request for Continued Examination filed May 13, 2008. Applicant filed Affidavit swearing behind the Virgin et al. (US 6,826,542). Claims 1-10 are pending.

Affidavit or Declaration Under 37 CFR 1.131

The Affidavit filed on May 13, 2008 under 37 CFR 1.131 has been considered but is ineffective to overcome the Virgin reference. The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Virgin reference. The evidence submitted does not show the claimed subject matter. The evidence does not provide support for a broker platform to receive invoice information from a plurality of presentation entities, organize the invoice information into categories and consolidating the invoices and forwarding the consolidated invoice to an advertiser. The evidence also does not provide any support for the features claimed in the dependent claims.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-5 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. 35 U.S.C. 101 defines four categories of inventions that Congress deemed to be the appropriate subject matter of a patent: processes, machines, manufactures and compositions of matter. The latter three categories define “things” or “products” while the first

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category defines “actions” (i.e., inventions that consist of a series of steps or acts to be performed). See 35 U.S.C. 100(b) (“The term process’ means process, art, or method, and includes a new use of a known process, machine, manufacture, composition of matter, or material.”). The claims must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as article or materials) to a different state or thing. Since none of these requirements is met by the claims, the method is not a patent eligible process under § 101 and is rejected as being directed to non-statutory subject matter. (See MPEP section 2106).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5, 6 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Virgin et al. (US 6,826,542).

Regarding claim 1, Virgin teaches providing a broker platform (Central Invoicing System) receiving from a plurality of presentation entities invoice information; organizing the invoice information into categories; preparing at least one consolidated invoice corresponding to a particular advertiser and forwarding the consolidated invoice to the advertiser (abstract, col. 2 lines 37-43, col. 8 line 63 to col. 9, line 8, col. 12 lines 47-67).

Regarding claim 5, Virgin teaches extracting relevant information from the invoice information from plurality of entities transforming the relevant information into a common document model; storing the transformed information and retrieving information from the database and outputting at least some of the information in the invoice for forwarding to the advertiser (payor) (see col. 12 lines 47-67).

Regarding claim 6, Virgin teaches a first interface for receiving from a plurality of presentation entities invoice information; a processor and memory for organizing the invoice information into a categories, functionally adapted to prepare at least one consolidated invoice corresponding to a particular advertiser (payor); a database in the memory for storing the categorized invoice information; a second interface for forwarding the consolidated invoice to the advertiser (payor) (see abstract, fig. 2 & 4, col. 2 lines 37-43, col. 8 lines 63-67, col. 12 lines 47-67).

Regarding claim 10, Virgin teaches parsing invoice information from plurality of presentation entities; transforming the relevant information into common document model; database for storing the information from the common document model and retrieving information from the database and output at least some of the information in a standard invoice form (see col. 12 lines 47-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Virgin et al. (US 6,826,542).

Regarding claim 2-4 and 7-9, Virgin teaches extracting information from the invoice or customizing the invoice according to payor's preference (see col. 8 lines 1-67). Virgin does not explicitly teach that one of the payors is an advertiser. Virgin also teach payer approving or disputing the invoice (see fig. 9, col. 13 lines 36-63). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to receive commercial aired, time the commercial aired, where the commercial aired and who the advertiser (payor) is, as part of the invoice, if the payor of Virgin is an advertiser. It would have also been obvious to one of ordinary skill in the art at the time of the invention for Virgin clients (payors or advertiser) to verify the invoice for error, as taught in Virgin.

Response to Arguments

Applicant's arguments filed May 13, 2008 have been fully considered but they are not persuasive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YR

/Yehdega Retta/
Primary Examiner, Art Unit 3622